

**Statement of Greg Scarlatoiu, Executive Director, Committee for Human Rights in North Korea at the hearing of the Tom Lantos Human Rights Commission entitled “North Korea’s Forced Labor Enterprise: A State-Sponsored Marketplace in Human Trafficking, April 29, 2015**

Good afternoon, Chairman Pitts. On behalf of the Committee for Human Rights in North Korea, I would like to express great appreciation for inviting me to speak with you today about North Korea’s forced labor enterprise and its state sponsorship of human trafficking. It is an honor and a privilege to have an opportunity to discuss these issues with you today.

**North Korea’s “Royal Palace Economy”**

North Korea’s nuclear and missile developments and other military provocations have continued to threaten international peace and security and challenge U.S. foreign and security policy. The Kim regime’s ruthless prevention and suppression of dissent among its population, isolation from the outside world, and denial of fundamental human rights have all worked to undermine peace and security on the Korean peninsula. Meanwhile, the “royal palace economy” (a term coined by HRNK non-resident fellow Kim Kwang-jin) generating hard currency for North Korea’s leaders has continued to enable three generations of Kims to stay in power through, in part, exploitation of its people sent to work overseas. North Korea’s exportation of tens of thousands of workers to foreign countries is an important part of the hard currency generating apparatus employed to sustain the Kim regime and (relatively) one of its more transparent examples of clear human rights violations against its people. Understanding this and the other building blocks of the “royal palace economy” will enable a better discernment of the reasons behind the longevity of the regime. It will also allow for the preparation of more effective sanctions to address the security and human rights challenges the regime poses, thereby improving the human rights situation of North Koreans.

The essential goal of the North Korean Human Rights Act of 2004 and the Reauthorization Acts of 2008 and 2012 is to promote respect for the fundamental human rights of the North Korean people. Enhanced understanding of North Korea’s quasi-licit and illicit international economic activities and their connection to human rights will enable experts, policymakers, and the public to more effectively seek ways to improve the human rights of North Koreans, especially of workers sent overseas.

The international sanctions imposed on North Korea have been based on the threats it has posed to international peace and security, as defined in Chapter VII, Article 41, of the UN Charter. The sanctions have not always been fully effective, primarily due to lack of cooperation by UN member states in the arms area. Effectively documenting linkages between the supply chain of the “royal palace economy” and human rights violations can provide the basis for expanding and diversifying the ground for action beyond existing North Korea sanctions.

In December 2014, following a February 2014 landmark report by a UN Commission of Inquiry establishing that the Kim regime has been committing crimes against humanity and subsequent strong UN Human Rights Council and UN General Assembly resolutions on North Korean human rights, this

topic was included in the permanent agenda of the UN Security Council. While fully acknowledging the importance of the security challenges North Korea presents, a better understanding of the linkages between the “royal palace economy” and human rights violations, in particular those relating to North Korean workers residing in foreign countries, will continue to help shift international attention and the ground for action to human rights and labor violations committed by the North Korean regime, in particular the exploitation of workers, human trafficking, and forced labor.

### **The Current Situation in North Korea**

In order to maintain itself in power—its main strategic objective, the Kim regime has ruthlessly prevented and suppressed dissent and denied North Koreans their most fundamental human rights. Since the death of Kim Jong-il in December 2011, North Korea has been undergoing its second dynastic transition. After the first three years of Kim Jong-un’s rule, the human rights situation has not shown any signs of improvement. Under the new leadership, North Korea also appears to have chosen the same path of brazen provocations and threats to regional peace and security, including missile launches and a nuclear test, undertaken at a cost that could have fed millions of North Koreans for years.

Twenty-six years since the collapse of communism in Eastern Europe, and despite sanctions imposed pursuant to UN Security Council Resolutions, the North Korean regime has managed a second hereditary transfer of power to Kim Jong-un, son of Kim Jong-il and grandson of Kim Il-sung. While the Kim regime has found the resources to produce nuclear weapons, and while it appears that at least some elite residents of Pyongyang enjoy luxury goods imported in violation of UN Security Council sanctions, no fewer than 21 million North Koreans out of a population of 24 million live under dire circumstances.

The 2-3 million North Koreans who are privileged belong to the “core class” according to North Korea’s social classification system, *songbun*. Some of them enjoy cell phones, better apartments, and much better living conditions than the 21 million. North Korea’s “royal palace economy” is not intended to improve the livelihoods of ordinary North Koreans. Through exports of licit, but especially quasi-licit and illicit goods, the regime seeks to earn currency for itself and for its immediate supporters. This is the purpose also served by North Korean workers exported overseas, who are denied basic labor rights. Because the regime does not show signs of embarking on real reform, the “royal palace economy,” including the system of sending workers overseas, can be expected to be relied upon and expanded further.

### **Overseas North Korean Workers**

The North Korean government has earned significant amounts of foreign currency by exporting North Korean laborers. After the collapse of communism in the former Soviet Union and Eastern Europe, the number of North Korean workers dispatched overseas declined. However, in recent years, the number appears to be on the rise, likely as the result of the Kim Jong-un regime’s attempts to increase available sources of funding, as it grows more isolated due to its missile and nuclear developments and brazen military provocations combined with the impact of international sanctions.

The North Korean regime recruits workers for assignments overseas under bilateral contracts with foreign governments. North Korean workers arrive in the recipient countries on three to five year contracts that can be extended indefinitely or not at all depending on the performance and loyalty of the worker. There are currently 52,300-53,100 North Korean laborers working overseas, earning the Kim regime USD 1.2-2.3 billion per year.<sup>1</sup> Available reports indicate that the first overseas North Korean laborers were loggers exported to the Soviet Far East in 1967.<sup>2</sup> Since the inception of the program, North Korean workers have been officially dispatched to 45 countries in Asia, Africa, the Middle East and Europe.<sup>3</sup> Currently, 16 countries reportedly host workers sent by the North Korean regime: Russia (20,000), China (19,000), Mongolia (1,300), Kuwait 5,000), UAE (2,000), Qatar (1,800), Angola (1,000), Poland (400-500), Malaysia (300), Oman (300), Libya (300), Myanmar (200), Nigeria (200), Algeria (200), Equatorial Guinea (200) and Ethiopia (100).<sup>4</sup> Although North Korea is not a member of the International Labor Organization (ILO), all but two of the 16 states officially hosting North Korean workers are ILO members.

Initially, North Korean loggers were sent to the former Soviet Union as part of a crude barter: North Korean labor, often forced, in exchange for Soviet weapons and some goods for civilian use, such as rudimentary electronics. In the 1970s and especially in the 1980s, as the economic situation of North Korea was becoming dire, the workers “realized that Russia was a better place as soon as they crossed the border.”<sup>5</sup> The regime realized that, however difficult the working conditions may have been even in the Russian Far East, the situation at home was worse, and the workers may have been tempted to defect. Thus, the regime decided to select male candidates of good *songbun*, married with at least one child, but more often with two or more. One’s belonging to the “core” class of certified loyalists and the family left behind was meant to deter defection. Certainly, none of them belonged to the *crème de la crème* of highly privileged Kim regime loyalists. They were on the fringes of the “core” class, loyal and employed in “respectable” positions, but poor. This remains the case today and also applies to young women now sent overseas as restaurant workers. Most of them have come from privileged “core” class families. Young women of good *songbun* have also been recently dispatched to work in China’s textile industry.

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<sup>1</sup> International Network for the Human Rights of North Korean Overseas Labor (INHL). *The Conditions of the North Korean Overseas Labor*. INHL. Seoul. 2012 (hereinafter “INHL Report”). Note: Estimates of the number of North Korean workers overseas vary. For example, UN Special Rapporteur Marzuki Darusman reported the number as approximately 20,000 in a news conference on March 16, 2015. See Stephanie Nebhay, *U.N. Expert to Probe Conditions of North Korean Workers Abroad*, 16 March 2015, REUTERS, <http://www.reuters.com/article/2015/03/16/us-northkorea-workers-idUSKBN0MC24420150316>. People for Successful Korean Reunification (PSCORE) estimated the number between 50,000 to 150,000 in a written statement submitted to the UN Human Rights Council. See A/HRC/28/NGO/51, 20 February 2015, [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=50&su=59](http://ap.ohchr.org/documents/dpage_e.aspx?c=50&su=59).

<sup>2</sup> *Logjams in the Soviet Timber Industry*. A research Paper. U.S. Central Intelligence Agency. Directorate of Intelligence. SOV 83-10206X. December 1983. Declassified in part, sanitized copy approved for release, January 26, 2012.

<sup>3</sup> Shin, Chang-Hoon and Myong-Hyun Go. *Beyond the UN COI Report on Human Rights in DPRK*. PP 21. The Asan Policy Institute. 2014.

<sup>4</sup> *Ibid.*

<sup>5</sup> HRNK interview with former North Korean logger in Russia. July 2013.

## Their Motives

Previously, the ambitions of those workers dispatched overseas were modest. For example, HRNK interviewed a former North Korean worker who, in the late 1980s, chose to work as a logger in the Russian Far East for two years. He agreed to work in substandard conditions, hoping that upon his return he would be able to “improve his family’s life, by offering them a color TV.” His fellow loggers were there for similar reasons, he said. However, in his and other cases, they never saw their families again as a result of the great famine and death toll in North Korea. This worker—and doubtless others—defected from the logging camp when he could no longer manage to help his family. He wandered around Russia for years, before finally finding his way to South Korea.<sup>6</sup>

Currently, North Korean workers may volunteer to go overseas in hope of better opportunities; they may be sent by their state companies on their accord; or they may just be dispatched by their employers, regardless of their preferences.<sup>7</sup> Nowadays, as reliance on markets has increasingly replaced the Public Distribution System (PDS), money plays a more prominent role in North Korea, and more workers seek overseas positions hoping for better opportunities than those available at home.

The agencies in charge of sending workers overseas may differ. Some of the construction workers exported to the Middle East are sent through Pyongyang Overseas Construction Enterprise. Loggers are sent to the Russian Far East by the Forestry Department. Since “North Korea has to select the ones [workers] of good *songbun*, the Social Safety Agency takes charge of the background investigation.”<sup>8</sup>

If a worker wants to go overseas, he has to bribe those involved in the selection process. Some workers mentioned USD 100-200, a very hefty amount by North Korean standards. One of them said it cost him a carton of cigarettes and two high quality liquor bottles. In order to secure an overseas deployment of up to three years, the selection process can be rather complicated:

“The difficult thing was that we had to have seven people as guarantors, so I asked my wife, older brother, the president of my company, manager, the party secretary, the State Security Department agent in charge of managing my company, and a police officer (Ministry of Public Security agent) to do it for me. After I reported seven guarantors on the application document, they gave me the authorization stamp which allowed me to leave.”<sup>9</sup>

Prior to their departure, the workers undergo indoctrination sessions and a physical examination. The physical examination, generally done no sooner than six months prior to departure, involves a blood test and eye, ear, and liver examination. The regime wants no medical expenses during their stay overseas, so only workers in excellent health are sent. As soon as they cross the border, their minds confiscate their passports. They will see them again only right before boarding the plane taking them back to North Korea, or right before crossing the land border from China or Russia.

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<sup>6</sup> HRNK interview with former North Korean logger in Russia. July 2013.

<sup>7</sup> *Pukhan Haewoe Nodongja Inkwon Shilthae* (The Current Human Rights Situation of North Korean Workers Dispatched Overseas). PP 41. Database Center for North Korean Human Rights. Seoul. 2015.

<sup>8</sup> HRNK interview with former North Korean construction worker in the Middle East.

<sup>9</sup> HRNK interview with former North Korean logger in Russia. July 2013.

In the 1980s and early 1990s, the overseas workers did not receive money for their work. Instead, their families received coupons which they could in turn use to purchase food and coveted washing machines or color TV sets from special stores. As the great famine of the mid to late 1990s set in, this system collapsed, together with the PDS. However, loggers and other workers still had to work for no pay. Through the few letters received from home, they learned that families continued to receive the coupons, but they were useless, as stores were now empty. As their families starved, some of these hardened men, who had survived appalling working conditions, decided to assume the ultimate risk: they left the logging camps, desperate to find a way to help their dying families. Even most of those who ultimately found their way to South Korea or other third countries were never reunited with their families again.

Two of the former restaurant workers interviewed, graduates of both college and Sojo (performing arts “institute”), stated that they wanted to work overseas “to see the world, and didn’t think much about the pay.”<sup>10</sup> Secluded in their living quarters and workplace almost the entire time, they only seldom got away for a few hours, to shop at local markets, under the constant surveillance of colleagues and minders.

During and after the great famine, the number of overseas North Korean workers declined. As the number began increasing again during the final years of the Kim Jong-il regime, at some locations, in particular in the Russian Far East (Khabarovsk and Vladivostok) and the Middle East, North Korean workers gained very limited access to opportunities to make a little money for themselves. In order to do that, one has to be cleared by the three supervisors: the Workers’ Party secretary—90 percent of the workers are party members, the State Security Department (SSD) agent, and the worksite manager.

The reason why some of the workers – even the most trusted – are cleared is that supervisors are increasingly corrupt and interested in extracting some profits for themselves. When a worker is sent abroad, he may be allowed by his supervisors to be “subcontracted” by other foreign workers at the same site. In such cases, other North Korean workers at the site have to increase their already overwhelming level of effort to make up for his absence. South Asian construction workers in the Middle East are known to “subcontract” North Korean workers to do their job. A foreign worker getting paid USD 40 a day hires the North Korean to do his job, paying him only half the daily wage. The respective foreign worker is free to work another job, thus increasing his income. The North Korean is left with very little, as he has to share the USD 20 with the three supervisors. The North Korean worker ends up being exploited by his government, by the recipient country—which is ultimately responsible for enforcing the labor rights of foreign workers within its territorial jurisdiction, by his three worksite supervisors, and even by other foreign workers. The loyalist pauper is now at the bottom of the heap, and the Kim regime knows it. Upon their return to North Korea, the SSD keeps the workers under strict surveillance for at least three years.

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<sup>10</sup> HRNK interviews with former North Korean restaurant workers. July 2013 and August 2014.

## **Working Conditions**

As a state party to the International Covenant on Civil and Political Rights (ICCPR), North Korea legally takes upon the responsibility to not undertake forced labor or servitude.<sup>11</sup> The international community expects North Korea to observe ICCPR Article 8, 3 (a) – that “no one shall be required to perform forced or compulsory labour.”<sup>12</sup> North Korea should also observe ICCPR Article 8, 1 prohibiting “slavery” and Article 8, 2 prohibiting “servitude.” Newspaper investigations, research reports, testimony from defectors and businessmen, and additional empirical evidence indicate that North Korea violates internationally accepted labor standards in its labor export program. High-profile North Korean defector Kim Tae Sun testified before the European Parliament that the coercive nature of North Korea’s international labor practices amounted to “21<sup>st</sup> century slave labor.”<sup>13</sup> Even if North Korea’s overseas workers did choose to work of their own accord, they are nevertheless made to accept sub-par, coercive working conditions and stay in their jobs through tactics and policies that would be beyond questionable almost anywhere else.

The situation of North Korean workers exported to other countries ranges from cruel and violent acts to ruthless exploitation. At worst, one may end up as a corpse inside a sealed coffin, decaying for months before being repatriated. At best, one may be allowed by the worksite supervisors to moonlight or do a side job in addition to one’s own heavy workload in order to earn a very small amount, after having paid the requisite bribes to those in charge.

Former loggers and a former logging camp truck driver told HRNK a terrifying story: When a worker dies at the camp, the body is not automatically repatriated. The cost of fuel is high, so management waits until ten corpses have piled up. Sometimes it takes five months or so. In most cases, the families receive decomposing or already decomposed bodies. The truck driver mentioned the most frightening sound he heard: water sloshing inside the ten sealed coffins he had loaded onto his truck, thawing corpses inside.

## **Freedom of Association/Collective Bargaining**

The European Parliament’s 2010 resolution on North Korea asserted that “the government subjects the population to forced labour as part of labour mobilization campaigns, and does not permit free association of labour or collective bargaining.”<sup>14</sup> The ILO’s Freedom of Association and Protection of the Right to Organise Convention affirms that these rights are fundamental characteristics of a clean supply chain.<sup>15</sup> Available evidence indicates that North Korean workers abroad do not have the freedom to associate with groups and individuals as they choose, or to engage in minimal collective bargaining

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<sup>11</sup> "International Covenant on Civil and Political Rights." Office of the United Nations High Commissioner for Human Rights, <http://www2.ohchr.org/english/law/ccpr.htm>.

<sup>12</sup> Ibid.

<sup>13</sup> Demick, Barbara. "N. Koreans Toil Abroad under Grim Conditions." The Los Angeles Times, <http://articles.latimes.com/2005/dec/27/world/fg-slaves27>.

<sup>14</sup> "European Parliament Resolution on North Korea". The European Parliament, <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B7-2010-0446&language=EN>.

<sup>15</sup> "C87 Freedom of Association and Protection of the Right to Organise Convention, 1948". 1948. International Labour Organization. 02/15 2012. <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C087>>.

practices that are prevalent around the world. Additionally, the International Covenant on Economic, Social and Cultural Rights (ICESCR), which North Korea acceded to in 1981, places an obligation on states parties to ensure “the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests.”<sup>16</sup>

Preliminary conclusions based on desk research and 25 interviews recently completed by HRNK for an upcoming publication on North Korean overseas workers indicate that they have no right to freedom of association or collective bargaining. Any attempt to protest their working conditions, to strike or organize would result in their swift repatriation and harsh punishment:

“They put plaster casts on both of the worker’s legs and send him back. The casts are taken off after they cross the border. They let the workers go home if it’s a minor problem, but for bigger issues they are sent to the *kwan-li-so* (political prison camp).”<sup>17</sup>

In most cases, the working conditions amount to forced labor. It is only the scale that may differ, depending on the recipient country, industry, or specialization. Differences in the scale of forced labor are circumstantial, rather than intentional.

### **Gender Discrimination**

The selection of young women only for restaurant and textile jobs overseas is indicative of deeply embedded gender discrimination for both males and females. Women, for one, tend to be selected to work in overseas restaurants if “you have a pretty face [and] are taller than 1.62 meters [approximately 5’3”],”<sup>18</sup> in addition to having good *songbun* and a Pyongyang education or music degree. For men, overseas labor consists of logging and construction, primarily, requiring extraordinary levels of manual labor over long hours. And despite these factors, the situation inside North Korea is grim enough that North Koreans still believe that temporarily leaving the country may still be an opportunity to have a glimpse of the outside world and send a little money to the family left behind. Further discriminatory practices of only selecting those of good *songbun* amounts to blatant discrimination against those belonging to the “wavering” or “hostile” class based on their perceived lack of loyalty to the regime. Since families are held hostage in North Korea to prevent defection, single men are precluded from access to overseas jobs.

### **Health and Safety**

Health and safety violations are widespread at overseas North Korean worksites. The scale of health and safety violations may depend on location, industry and specialization. Logging camps in Russia may be hours away from emergency care. Such facilities are much closer for those working in urban areas in Russia, China or the Middle East. In the case of female restaurant workers, most of whom are daughters

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<sup>16</sup> ICESCR, Article 8, 1 (a), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

<sup>17</sup> HRNK interview with former North Korean logger in the Primorsky, Tinda, Amur Oblast, Russian Federation.

<sup>18</sup> INHL Report, *supra* note 1, at 33.

of the elites, the North Korean government will reportedly pay only for appendectomies.<sup>19</sup> If health issues are too serious to be resolved through self-medication, the workers are repatriated.

The frequency of workplace accident-related injuries and fatalities depends on industry and specialization. The fatality rate is high among loggers, in particular among truck drivers—who often have to drive on slippery surfaces—and the teams tasked to cut down the trees. Loggers work at night, with no illumination other than the moonlight, and sometimes truck headlights. Safety training is minimal, and basic safety procedures are often not observed.

### **Protection of Wages**

North Korea most blatantly violates international law and labor standards regarding wages. As mentioned, North Korea acceded to the ICESCR. As such, it has the affirmative duty to adhere to the treaty, which includes Article 7:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.<sup>20</sup>

In spite of the provisions of this core international human rights treaty, North Korea does nothing to ensure these rights, and in fact directly contravenes them at the expense of its people.

Additionally, the International Labour Organization's Protection of Wages Convention stipulates that wages should generally be paid directly in legal tender.<sup>21</sup> The Protection of Wages Convention gives

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<sup>19</sup> HRNK interview with former restaurant worker, August 2014.

<sup>20</sup> ICESCR, Article 7, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

<sup>21</sup> "C95 Protection of Wages Convention." International Labour Organization, [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C095](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C095). See also, International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and



some leeway to governments to apply provisions within the limits of “national laws and regulations,” and Article 4 does allow for partial payment of wages in the form of allowances. However, it stipulates that these allowances should be “fair and reasonable” and that “such allowances are appropriate for the use and benefit of the worker and his family.” North Korea’s unwillingness to protect wages against steep deductions that limit the freedom of its workers is the clearest pattern that emerges from an analysis of North Korea’s international labor practices. Wage violations affecting overseas workers are rampant. Workers are not paid directly by the foreign employers.<sup>22</sup>

A former construction worker in the Middle East told HRNK: “We were slaves. [...] Bangladeshi workers doing similar work got paid 450 dollars a month on average. We also did earn the same amount, but it just all went to the Worker’s Party... [...] But our families at home are still waiting in the hope of getting at least one TV when the fathers come back.”

Another witness said:

“The system is so strict that no one in North Korea can ever criticize Kim Jong-il. That is why we continued working unpaid even after five months passed. The managerial staff would tell us, ‘Back in our homeland people are starving and participating in the *Arduous March*.<sup>23</sup> We are blessed by the General to be out here and have white rice and beef soup every day. We should thank him for everything we have here.’ That was our life at the construction site in the Middle East.”<sup>24</sup>

Overtime violations are so egregious that the workers simply don’t understand the concept. While overseas, North Koreans work between 14 and 16 hours a day, with no holidays, except perhaps one day a month, depending on location and industry:

“My morning shift was from 7am to 12pm. I had a lunch break from 12pm to 1pm. My evening shift was from 1pm to 6pm, and then I had a dinner break from 6pm to 7pm. After that I worked for three to four hours more. So it was 13 to 14 hours in total. There were no holidays.”<sup>25</sup>

The overtime violations may be slightly less severe, if the workers have more specialized skills. A former construction welder in Russia told HRNK that he could leave earlier than other North Koreans, at about 7 or 8 pm. However, his life was harder than that of Russian co-workers. While he reported for work at 6 am, they did not show up until 9 am. They all got off by 5 pm, two or three hours before he did.

The evidence in every nation listed above indicates that North Korean workers abroad face steep and unfair deductions from their wages. The workers do not receive the full income directly and anecdotal evidence, defector testimonies, and government investigations indicate that the partial amount that the

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Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

<sup>22</sup> HRNK’s findings on this topic concur with those of the Asan Institute of Policy Studies and the Database Center for North Korean Human Rights.

<sup>23</sup> Euphemism used by Kim regime propaganda to describe the great famine of the 1990s.

<sup>24</sup> HRNK interview with former construction worker in the Middle East. July 2013.

<sup>25</sup> Ibid.

workers receive, no higher than 20% of the total, does not constitute a “fair and reasonable” allowance pursuant to Article 4, (2)(b) of the Protection of Wages Convention.

### **Forced Labor**

While it is true that the information from the countries above strongly suggests that many of the workers were personally attracted to work overseas by the possibility of improving socioeconomic status in North Korea, or the relative misery of the situation within North Korea itself, this does not mean that North Korea’s overseas workers are not victims of forced labor. Despite the fact that neither the ICCPR nor the ILO specific definition of forced labor fits the North Korean situation, forced labor may not necessarily mean that a worker was initially forced into employment. It may mean that the work environment is coercive and the employer/government prevents the worker from leaving on his/her own terms. If this is the definition of forced labor, coupled with the reality of 14-16 hour days with no time off, North Korea’s workers abroad are victims of forced labor.

Furthermore, the ICESCR speaks of the right to work as involving “productive employment under conditions safeguarding fundamental political and economic freedoms to the individual” (Art 6 (2)) and which provides for unions (Art 8).<sup>26</sup> In every situation, the North Korean government provides minders, ideology sessions, and barriers (even physical ones, as seen in Kuwait) to associating with other individuals and groups or leaving employment. Freedom of association is a fundamental labor right. It is clear that North Korean workers abroad do not have this essential freedom, much less the right to organize or bargain collectively for better terms.

When emergencies take place in foreign countries, North Korean workers are abandoned. This was the case of hundreds of North Korean workers who were left in Libya, once the 2011 civil war began. The North Korean government made no attempt to repatriate them. It is not clear whether that happened due to the lack of resources, inability to make logistical and transportation arrangements, or fear that they may bring back home their eyewitness account of the “Arab spring.”

### **Future Direction: The Global Supply Chain**

The term “global supply chain” aptly identifies both the challenges and opportunities inherent in handling North Korea’s international economic outreach. North Korea’s international labor force encompasses tens thousands of workers in many different countries and involves many businesses and consumers.

This new global outreach means that Pyongyang can no longer play solely on its own terms. North Korea may not be a party to most agreements governing human rights and labor, but the North Korean government is dealing with an increasingly globalized world in which all of the countries that employ North Korean workers are highly enmeshed in a body of international organizations and law setting forth standards for worker treatment.

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<sup>26</sup> ICESCR.

As a country participating in this global supply chain, North Korea has opened itself up to additional recommendations to improve its labor standards. For example, in 2014, the UN Human Rights Council's Universal Periodic Review was conducted for the second time on North Korea's human rights record. States made recommendations to North Korea on labor and migrants issues, including:

- Consider acceding to ICERD and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) (Egypt);
- Ratify international conventions, particularly ICERD, CAT, ICRMW and the International Convention for the Protection of All Persons from Enforced Disappearance (CPED), with the aim of enacting them into national law (Sierra Leone);
- Consider promptly joining the International Labour Organization (Uruguay);
- Take practical measures to provide safer working conditions, suitable for its citizens (Nicaragua)

Previously, in Cycle 1 of the UPR, these recommendations were made to North Korea:

- Amend the Labour Law of the Industrial Complex of Kaesong and incorporate the minimum age of 18 years for work hazardous to the health, security or morality of minors (Spain);
- Consider joining ILO and accede to and implement its core conventions, in particular Nos. 29, 105 and 182, on child and forced labour (Brazil);
- Consider signing-ratifying the remaining international human rights instruments, including ICERD and ICRMW (Nigeria);
- Invest sufficient resources to promote and protect the principle of equality in the fields of work, education and health (Libya);
- Join ILO and accede to its core instruments and extend an open invitation, and without restrictions, to ILO officials to analyze the situation of workers' rights in the country (Spain);
- Join ILO and ratify core conventions, particularly Nos. 105, 182 and 138, and allow related monitoring by ILO staff (United States);
- Put an end to forced labour practices (Chile, Cycles 1 and 2);
- Take effective measures against the practice of forced labour, including child labour and join ILO (Italy);

A common theme throughout is for North Korea to join the ILO and implement better safety standards for its workers abroad.

External to the UN system, at times, NGOs may be tactically more effective, because there may be no need to target North Korea directly. Pressuring host countries that are more accountable than North Korea under international law and more exposed to the international economic system, and thus more vulnerable, may make the odds to facilitate real change more reasonable

In practice, NGOs can trace goods and services in the global supply chain to North Korean workers abroad. Simon Ostrovsky's article in *The Independent* on North Korean workers in Mongolia traced

products from UK clothing labels such as Edinburgh Woolen Mill to North Korean workers.<sup>27</sup> Furthermore, it has been rumored that Land's End labels that say "Made in China" were really made by North Koreans in Rason. Supply chains depend on global consumption, and NGOs may effectively reduce demand for goods and services produced by North Korean workers if their work conditions continue to violate international standards. NGOs can also influence corporations to adhere to the Global Sullivan Principles and to only conduct business in countries that adhere to ILO standards, thus helping to regulate, oversee, and ensure that North Korean workers are not as vulnerable and exploitable.

Efforts aiming to improve the labor rights of overseas North Korean workers could target governments, employers' associations, companies, labor unions, NGOs, consumer groups, media organizations, and the general public in countries hosting North Korean workers, and could also aim to present a persuasive case to the North Korean authorities that improving the labor conditions of these workers may ultimately be in the best economic interest of North Korea. Most recently, the Construction Development Company in Qatar fired half its North Korean workers because of the violation of labor rights by the North Korean authorities.<sup>28</sup>

Despite the great difficulty in finding information on North Korea's international economic activity, let alone the status of its workers, by now there is sufficient evidence to argue that goods and services produced by North Korean workers abroad do not constitute part of a "clean" supply chain. Further, since supply chains that produce clothes or industrial goods are typically international, it is perfectly legitimate to use the conventions of the International Labour Organization as a standard for a clean supply chain. The ILO does not have to deal with North Korea directly; it can evaluate and publicize the situation of North Korean workers in its 183 member states.

### **Recommendations to the U.S. Congress**

To improve the working conditions and human rights of North Korean workers officially residing overseas, the following recommendations are offered:

*First*, the U.S. Congress should devise a strategy that addresses the issues of North Korean human rights and labor violations that impact the American economy, to include periodically holding hearing on this topic in order to hear from stakeholders and inform the public. As such, North Korea should be urged to abide by its legal obligations under the ICCPR and the ICESCR and its own domestic legislation to protect the rights of its workers, at home and abroad.

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<sup>27</sup> Ostrovsky, Simon. "Profit from Its People: North Korea's Export Shame." The Independent, <http://www.independent.co.uk/news/world/asia/profit-from-its-people-north-koreas-export-shame-2370220.html>.

<sup>28</sup> Cho, Eunjung. "Qatari Firm Fires North Koreans, Cites Labor Exploitation." Voice of America exclusive report. May 7, 2015. <http://www.voanews.com/content/exclusive-qatari-firm-fires-north-koreans-citing-labor-exploitation/2753359.html>.

*Second*, the U.S. Congress should make clear that U.S. companies doing business with North Korean companies or workers that are violating labor and human rights laws must operate under a set of standards inspired by the Global Sullivan Principles or terminate their relationship. Companies along the supply chain tainted by violations of the rights of exported North Korean workers should be encouraged to apply those standards.

*Third*, the U.S. Congress should collaborate with the Department of State to ensure that the Trafficking in Persons Report further investigates the situation of exported North Korean laborers.

*Fourth*, the U.S. should continue to support NGOs tasked to monitor the severe labor and human rights violations occurring at worksites with overseas North Korean workers so that their work can inform the American public and American corporations conducting business in host countries. Likewise, a Congressional Research Service report on these issues should be conducted.

*Fifth*, the U.S. should continue to recommend that North Korea join the ILO and ratify its core conventions, particularly Nos. 105, 182, and 138, and allow related monitoring by ILO staff. As previously mentioned, states have made these recommendations to North Korea during its UPR. North Korea's response, however, has primarily been to "note" the recommendations, not accept or reject them. Encouragingly, perhaps, North Korea "accepted" Nicaragua's recommendation to "Take practical measures to provide safer working conditions, suitable for its citizens." This should be pressed well in advance of North Korea's next UPR in 2019.

*Sixth*, the U.S. Congress should collaborate with the U.S. Ambassador to the UN to request that she advocate that:

- at the 25th Anniversary of the ICRMW on December 18, 2015, the Committee on Migrant Workers<sup>29</sup> remind countries with North Korean laborers to abide by their international obligations and take steps to protect the rights of all foreign workers, including North Korean workers, in particular for those whose wages and working hours rights are violated;
- the UN Committee on Migrant Workers push for an investigation on North Korean workers overseas in countries that are states parties to the ICRMW;
- the UN Special Rapporteur on Contemporary form of Slavery and the UN Special Rapporteur on the situation of human rights in the DPRK further investigate the situation of exported North Korean laborers, and the cooperation of host countries should be sought;
- North Korea accede to or sign the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.<sup>30</sup>

Furthermore, Congress should request that the U.S. Ambassador to the UN meet with the UN Committee on Migrant Workers to push for an investigation on North Korean workers overseas in countries that are states parties to the ICRMW.

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<sup>29</sup> Members are from the following states: Philippines, Ecuador, Honduras, Argentina, Mali, Egypt, Morocco, Bangladesh, Sri Lanka, Algeria, Peru, Burkina Faso, Azerbaijan, and Senegal. See <http://www.ohchr.org/EN/HRBodies/CMW/Pages/Membership.aspx>.

<sup>30</sup> ICRMW, 18 December 1990, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>.

Additionally, the U.S. Ambassador to the UN should urge the UN Economic and Social Commission for Asia and the Pacific (ESCAP), which trains North Koreans in business management and law, to include in that training material and guidance on the UN Global Compact's principles for companies, specifying labor standards and workers' rights.<sup>31</sup>

*Seventh*, violations of the labor rights of North Korean workers residing overseas should be included in future legislation pertaining to sanction regimes. As such, Congress should pass the North Korea Sanctions Enforcement Act of 2015 (H.R. 757),<sup>32</sup> which allows for sanctions against persons (or entities) "knowingly engaging in or contributing to activities in North Korea, through export or import, which involve" ... "human rights abuses."<sup>33</sup>

*Eighth*, the U.S. should ban the import of products made by North Korean migrant workers, if produced in violation of international labor and human rights laws.<sup>34</sup>

***For the State Department:***

*Ninth*, host countries should be persuaded by the relevant U.S. Country Team to conduct both scheduled and surprise inspections of worksites employing North Korean workers, pursuant to their international obligations.

*Tenth*, a determination should be made by the relevant U.S. Country Team and by the Special Rapporteur on human rights in the DPRK if the presence of tens of thousands of North Korean citizens overseas may provide opportunities for access to improve the human rights situation of North Koreans at home and abroad, despite their being subjected to draconian control and surveillance by the North Korean authorities.

*Eleventh*, hosting states and employers should be encouraged by the relevant U.S. Country Team to seek direct access to North Korean workers and distribute material informing them of their rights derived from their physical presence within the territorial jurisdiction of that respective country.

***Other Recommendations:***

*Twelfth*, the eight ILO Core conventions on fundamental labor standards should be the minimum standard applied to determine the status of exported North Korean workers and to hold both North Korea and receiving countries accountable.

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<sup>31</sup> Roberta Cohen, *Must UN Agencies Also Fail in North Korea?*, 21 April 2015, 38 North, USKI-SAIS, <http://38north.org/2015/04/rcohen042115/>. See also ESCAP, *NGOs and the Private Sector*, <http://www.unescap.org/partners/working-with-escap/ngos-and-the-private-sector>. The ROK is a major donor to ESCAP. <http://www.unescap.org/partners/working-with-escap/donors>

<sup>32</sup> Library of Congress, *Summaries for the North Korea Sanctions Enforcement Act of 2015*, <https://www.govtrack.us/congress/bills/114/hr757/summary>.

<sup>33</sup> *Id.*

<sup>34</sup> As recommended by PSCORE; see A/HRC/28/NGO/51, 20 February 2015, [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=50&su=59](http://ap.ohchr.org/documents/dpage_e.aspx?c=50&su=59).

*Thirteenth*, the exportation of North Korean labor should be terminated through concerted international action, if the North Korean regime refuses to act upon calls to improve the working conditions and the overall human rights situation of these workers.

Thank you, Chairman Pitts. I look forward to answering any questions you might have.